

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re Flint Water Cases.

Judith E. Levy
United States District Judge

_____/

This Order Relates To:

ALL CASES

_____/

**ORDER REGARDING THE EFFECTIVE DATE OF
SETTLEMENT AGREEMENT AND AUTHORIZING
DISTRIBUTION OF CERTAIN PORTIONS OF PLAINTIFFS’
ATTORNEY FEE AND COST AWARD**

On November 10, 2021, this Court issued an opinion and order granting final approval of a partial settlement entered in *In re Flint Water Cases*, Case No. 5:16-cv-10444.¹ (ECF No. 2008 (“Final Approval Order”).) The Final Approval Order prompted the parties’ submission of the necessary documents for implementing the Settlement Agreement, which included a proposed Final Judgment and Order of Dismissal. On March 3, 2022, this Court issued the Amended Final Judgment and

¹ Unless otherwise specified in this Order, capitalized terms in this Order have the same meaning as defined in the Amended Settlement Agreement (“ASA” or “Amended Settlement Agreement”). (ECF No. 1394-2.)

Order of Dismissal with Prejudice Implementing the Partial Settlement Pursuant to Federal Rules of Civil Procedure 54(b) and 58(a) (“Final Judgment”). (ECF No. 2128.)

The Amended Settlement Agreement became final “immediately upon the completion of the last of the” events set forth in Section 8.12 of the ASA. (ECF No. 1394-2, PageID.54156; *see also id.* at PageID.54129 (defining “Effective Date” as “the date that the Settlement Agreement becomes Final as set forth in Paragraphs 8.12.1–8.12.6.”).) The last event completed under Section 8.12 occurred when the two appeals taken from the Final Judgment entered on March 3, 2023 were dismissed, as further explained below.

As set forth in Section 8.12 of the Settlement Agreement, the Settlement Agreement becomes final after six events are completed, including:

The expiration of the time for appeal or to seek permission to appeal from the dismissal with prejudice of Related Lawsuits, the Federal Court’s entry of the Final Orders and Judgments or, if an appeal from one or more of the dismissals or Final Orders and Judgments is taken, the affirmance of the dismissals and Final Orders and Judgments in their entirety, without modification, by the court of last resort to which an appeal of such dismissals and Final Orders and Judgments may be taken[.]

(*Id.*) Two individuals filed appeals that related to the Final Judgment. (ECF Nos. 2132, 2205, 2206.) One appeal was voluntarily dismissed on September 2, 2022 (ECF No. 2210), and the Sixth Circuit dismissed the other appeal on September 14, 2022 for failure to prosecute. (ECF No. 2214.) No further appeals were taken. Accordingly, under the ASA, the Effective Date of the Amended Settlement Agreement occurred after the last appeal was dismissed. Accordingly, the Effective Date has passed and the dismissals and releases are all final.

As set forth in Section 11 of the Settlement Agreement, “Counsel for Individual Plaintiffs and Class Members shall be reimbursed and paid solely out of the FWC Qualified Settlement Fund[.]” (ECF No. 1394-2, PageID.54159.) The Court determined the methodology for attorney fees and expenses in an Opinion and Order regarding Plaintiffs’ attorney fees and costs issued on February 4, 2022 (“Attorney Fee and Cost Order”).²

Accordingly, and pursuant to that Order and the ASA, the Court authorizes a distribution from FWC Qualified Settlement Fund for the

² Although the Effective Date is not affected by appeals taken from the Attorney Fee and Cost Order, the Court notes that appeals were taken, and the Sixth Circuit denied them. (*See* ECF No. 2397.) The Sixth Circuit issued a mandate on May 2, 2023. (ECF Nos. 2432, 2433, 2434.)

following payments to Plaintiffs' Counsel as set forth in the Attorney Fee and Cost Order:

(a) An expense award in the amount of \$7,147,802.36.

(b) A Common Benefit Award in the amount of \$39,641,625, which is 6.33% of the total settlement amount.

(See ECF No. 2105, PageID.72142.)

The Special Master is instructed to provide this Order to the QSF Administrator. The Special Master shall instruct Co-Lead and Co-Liaison Counsel to provide to the QSF Administrator with the information necessary for the QSF Administrator to make the disbursements as set forth in the ASA and in the Attorney Fee and Cost Order. The Special Master will instruct the QSF Administrator accordingly and oversee the disbursement process.

This disbursement does not include awards of any amounts based upon the value of any amounts later awarded to Claimants, which will be separately authorized after the claims determinations have been completed as set forth in the ASA.

IT IS SO ORDERED.

Dated: May 12, 2023
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or first-class U.S. mail addresses disclosed on the Notice of Electronic Filing on May 12, 2023.

s/Erica Parkin on behalf of
WILLIAM BARKHOLZ
Case Manager